

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF MISSOURI

Thomas R. McLean, MD)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 4:20-CV-593-BP
Jeffery W. Bruce,)	
)	
Defendant.)	

PLAINTIFF'S MOTION FOR SUBSTITUTED SERVICE

COMES NOW, Thomas R. McLean M.D., as a *pro se* Plaintiff in the above action to respectful request a Motion for Substituted Service upon the Defendant's wife and adult children. For the reasons discussed below, Dr. McLean's claim of breach of contract and professional negligence survive Defendant Bruce's death. According, Dr. McLean respectfully requests a writ summoning the Defendant's family (heirs) to represent him in this litigation.

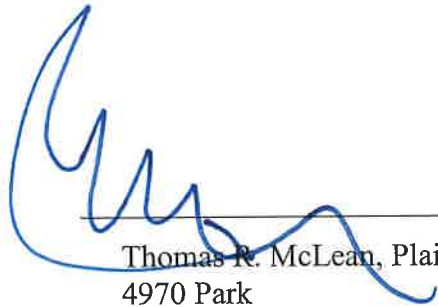
1. A Suggestion of Death for Defendant Bruce's Death is being filed concurrently.
2. "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative." FRCP 25(a)(1).
3. Whether a claim survives a party's death is determined by state substantive law. *See In re Baycol Prods. Litig.*, 616 F.3d 778, 785 (8th Cir. 2010). Under Missouri law, both Dr. McLean's breach of contract claim (MO Rev Stat § 431.130) and his professional negligence claims (MO Rev Stat § 537.020) survive the death of Defendant Bruce.
4. Given that Defendant Bruce's death occurred approximately 48 hours ago, it is extremely unlikely that Defendant has a personal representative for purposes of probate.
5. Dr. McLean is unaware of any personal representative or agent for Defendant Bruce.
6. From conversation with the Defendant, Dr. McLean believes that Defendant Bruce is only survive by his wife and two children.

7. Dr. McLean knows that the Defendant's wife, Margaret L Bruce resides at 2107 E 195th Street, Belton, MO, 64012.
8. On May 24, 2022, a search of publicly (Spokeo) records, revealed that:
 - a. Mathew W Bruce, resides at 2103 E 195th Street, Belton, MO, 64012; and
 - b. Leslie K Bruce, resides at 2107 E 195th Street, Belton, MO, 64012.

WHEREFORE, Dr. McLean's claims against Defendant Bruce survive Mr. Bruce's death, Dr. McLean respectfully requests the Court to issue a writ to be served upon Margaret L, Mathew W, and Leslie K Bruce. This writ should instruct the Defendant's family on how and when to make an appearance to represent the late Defendant in this litigation.

Respectfully Submitted,

May 24, 2022



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